

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

Michael Smith,

Plaintiff,

v.

Case No. 06-13153

Sgt. Kevin Karson, Officer Stephanie Beech,  
Officer John Williams, Officer Daniel Sanford,  
Officer Terry Webb, Chief of Police Michael  
Sumeracki, and Wayne Police Department,

Honorable Sean F. Cox

Defendants.

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**ORDER OF DISMISSAL WITHOUT PREJUDICE**

This *pro se* action was filed on July 11, 2006. An Order granting Plaintiff's Application to Proceed In Forma Pauperis was issued on August 25, 2006, which ordered Plaintiff to arrange service of the complaint.

FED. R. CIV. P. 4(m) provides that "[i]f service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period."

On February 20, 2007, this Court issued an "Amended Order Directing Plaintiff to Show Cause." That Order explained that although this action was filed on July 11, 2006, a review of the docket revealed that no summons had been returned as to any of the named defendants in this action and that the time for service under FED. R. CIV. P. 4(m) had expired. The Court therefore

ordered Plaintiff to show cause in writing, on or before March 1, 2007, why this case should not be dismissed for failure to effect timely service.

On March 1, 2007, Plaintiff filed a letter that discusses his allegations against the defendants. Although Plaintiff's letter notes that he is "on a fix[ed] income" and states that he "would like to know if Judge Sean F. Cox would appoint [him] an Attorney," the letter does not address Plaintiff's failure to serve the Defendants in this action.<sup>1</sup>

Accordingly, pursuant to this Court's August 25, 2006 Order, its February 20, 2007 Order, and FED. R. CIV. P. 4(m),

**IT IS ORDERED** that this action is hereby **DISMISSED WITHOUT PREJUDICE** for failure to timely serve Defendants.

**IT IS SO ORDERED.**

S/Sean F. Cox  
Sean F. Cox  
United States District Judge

Dated: May 3, 2007

I hereby certify that a copy of the foregoing document was served upon counsel of record on May 3, 2007, by electronic means and upon Michael Smith by ordinary mail at the address below:

**Michael Smith**  
29477 Cherry Hill  
Inkster, MI 48141

S/Jennifer Hernandez  
Case Manager

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<sup>1</sup>Nor does Plaintiff's letter request additional time for service.